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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/451,341	11/30/1999	KEN BURROUGHS	TKMA.65581	8911

7590 05/19/2003

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EXAMINER

ROWAN, KURT C

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/451,341

Applicant(s)
BURROUGHS et al.

Examiner
KURT ROWAN

Art Unit
3643



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 28, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-9, 11-13, 15-19, and 21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9, 11-13, 15-19, and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other: _____

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DETAILED ACTION

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Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 28, 2003 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the lower sidewall, the upper sidewall, a lower interior compartment, the first and second opposite ends of the upper and lower sidewalls must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: upper and lower sidewalls, the first and second opposing ends of the upper and lower sidewalls, a lower interior compartment. It should also be pointed out that in line 2 of page 5 of the specification, the second cylindrical extension is not labeled with a reference numeral. It appears that it should be 28. Please clarify/ correct.

Claim Rejections - 35 U.S.C. § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4, 6, 7-9, 11-13, 15-19, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Woolworth.

The patent to Woolworth shows a live well tank having a bottom 2, sidewall section 1, a top 3 having an opening 6 with the top having an upper surface projecting inwardly from the sidewall section to cover a portion of the interior compartment. The top is coupled to the second end of the upper sidewall section. Woolworth shows a baffle 20, 24 coupled to the sidewall section extending inwardly from the sidewall section into the interior compartment having a first surface

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23 extending generally horizontally from the sidewall section. Woolworth shows a second surface 25 extending outwardly toward the sidewall section to form an upper section of the interior compartment between the baffle and the top. In reference to claims 1, 12, and 16, Woolworth shows an overflow drain 26 coupled with the sidewall section of the tank between the top and the baffle whereby the upper section is capable of retaining water near the top of the compartment. Woolworth shows upper and lower sidewalls which can be defined as the portion of the sidewall above the baffle 24 and the portion of the sidewall below the baffle 24. Woolworth shows a lower interior compartment which is at the bottom, below the baffle. In reference to claims 6 and 17, Woolworth shows the baffle extending completely around the sidewall section. In reference to claims 7 and 15, Woolworth shows the first surface having a lower generally planar surface where the ring 20 meets bead 24 and a second curved surface since surface 25 is cylindrical. In reference to claims 8, 18, Woolworth shows a ledge surface 5 extending outwardly from the sidewall section 1. In reference to claims 11 and 19, Woolworth shows a sealing flange 10 upstanding from the upper surface of the top 3. In reference to claims 11 and 21, Woolworth shows a collar 7 coupled with the sealing flange 10. The collar appears to be made from metal which is a resilient material.

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Claim Rejections - 35 U.S.C. § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woolworth.

The patent to Woolworth shows a live well tank for use on a boat to hold fish as discussed above.

In reference to claim 3, Woolworth appears to show a circular opening, but it would have been obvious to a rectangular opening since the function is the same and no stated problem is solved.

8. Applicant should amend the claims to include limitations not shown by Woolworth such as the shape of the container noting outwardly extending portion 20, the baffle has parallel horizontal surfaces 40, 42, the first and second cylindrical extensions 24 and 28(?).

9.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday
from 6:30 a.m. to 5:00 p.m.

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The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink that reads "Kurt Rowan". The signature is written in a cursive, flowing style.

KURT ROWAN

PRIMARY EXAMINER

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May 18, 2003